

**MINNESOTA BOARD OF MEDICAL PRACTICE  
BOARD MEETING  
2829 UNIVERSITY AVE. SE  
MINNEAPOLIS, MN 55414-3246**

**MARCH 7, 2009**

The Minnesota Board of Medical Practice met on its regularly scheduled meeting date, March 7, 2009, at its offices in Minneapolis, Minnesota.

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Rebecca Hafner-Fogarty, M.D., MBA, President, Allen Rasmussen, Vice President, Alfred Anderson, D.C., M.D., Secretary, Keith Berge, M.D., Robert Brown, Ph.D., Jack Geller, Ph.D., Bradley Johnson, M.D., Ernest Lampe, II, M.D., James Langland, M.D., Tammy McGee, James Mona, D.O., and Gregory Snyder, M.D.,

**PUBLIC SESSION**

Roll call was recorded by Robert Leach, Executive Director.

The minutes of the January 10, 2009, Board meeting were received and approved as circulated.

Monica Feider, Program Manager, Health Professional Services Program (HPSP), presented the 2008 HPSP Statistical Report to the Board and gave a brief overview of HPSP. A question and answer session followed.

On recommendation of the Licensure Committee, physician applicants 1 – 100 and 154 of the hand-out, pending approval in Executive Session, of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Licensure Committee, physician applicants 101 - 102 of the agenda were approved for Emeritus registration.

On recommendation of the Acupuncture Advisory Council, acupuncturist applicants 103 - 112 of the agenda were approved for licensure subject to the receipt of verification documents.

On recommendation of the Athletic Trainer Advisory Council, athletic trainer applicants 113 - 121 of the agenda were approved for registration subject to the receipt of verification documents.

On recommendation of the Physician Assistant Advisory Council, physician assistant applicants 122 - 146 of the agenda were approved for registration subject to the receipt of verification documents.

On recommendation of the Respiratory Care Practitioner Advisory Council, respiratory care practitioner applicants 147 - 153 were approved for registration subject to the receipt of verification documents.

The minutes of the February 12, 2009, meeting of the Licensure Committee were received and approved as circulated.

Tammy McGee, Chair of Policy and Planning Committee presented the February 3, 2009, Policy and Planning Committee Meeting Agenda.

Ms. McGee thanked Gregory Snyder, M.D., for taking the initiative to investigate other board websites, which was very helpful during the IT discussion at the February 3, 2009, Policy and Planning Committee meeting.

Ms. McGee asked Richard Auld, Ph.D., Assistant Executive Director to give an update to the proposed changes to the Respiratory Care Practice Act and the Physician Assistant Bill.

Dr. Auld stated that the proposed respiratory care practitioner (RCP) bill will change the RCP credentials from registration to licensure. Dr. Auld informed the board that another change, which developed subsequent to the Policy and Planning Committee meeting on February 3, 2009, is an author amendment changing the requirements of the Practice Act to make it more difficult for uncredentialed personnel to provide the services of a RCP; which will provide the board with additional authority to oversee uncredentialed people performing the duties of a RCP. Dr. Auld informed the board that this bill has passed the Policy Committee in the Senate and has been sent to the Senate Floor. In the House, it passed out of the Licensure Subcommittee of the House Policy Committee and has been sent to the Policy Committee.

Dr. Auld stated that the Physician Assistant (PA) bill has passed through both the Policy Committee and the full Senate and has been sent to the House and was referred to the Licensure Subcommittee of the Policy Committee and was heard at the same time as the RCP bill. Dr. Auld stated that the substance of the PA bill is a change in the PA credential from registration to licensure. Also, there is an increase in the number of PA's a given physician can supervise from two to five and the supervising physicians would have more latitude in the number of PA's they could supervise in a crisis situation as well as the ability of the PA to provide service, in those situations.

Dr. Auld stated that SF 585 is a bill that removes redundant review process, which is costly to both the board and the Office of the Attorney General. Dr. Auld stated that this bill went through the Licensure Subcommittee in the House and passed unopposed and is being sent on to the full Committee and will be reviewed by them shortly.

James Mona, D.O., requested that a letter be sent out to all hospitals in the State of Minnesota informing them of the changes to the RCP Practice Act. Dr. Auld agreed to have board staff do the mailing if the RCP bill passes.

Ms. McGee stated that the Policy and Planning Committee decided that the Committee size will not be less than four members and no more than seven, with two members being physicians. Mr. Leach explained to the board that there are two operating Complaint Review Committees consisting of six board members, five board members on the Licensure Committee, and four board members participate on the Policy and

Planning Committee. The board currently has twelve board members, which doesn't allow for sufficient membership on the Policy and Planning Committee. Mr. Leach stated that Dr. Snyder, Ms. McGee, and Mr. Rasmussen, who also sit on other committees, volunteered to participate in the Policy and Planning Committee. When new board members are appointed, they will be assigned to either the Licensure or Policy and Planning Committee. In order to retain the institutional memory of the Policy and Planning Committee members that are also serving on other board Committees, it was decided at the February 3, 2009, Policy and Planning Committee to allow board members who wish to participate on more than one committee, and one of them being Policy and Planning, to do so.

The minutes of the February 3, 2009, meeting of the Policy and Planning Committee were received and approved as circulated.

Mr. Leach reminded board members that the annual meeting of the Federation of State Medical Boards (FSMB) will be held April 30 – May 2, 2009, in Arlington, VA at the Hyatt Regency Crystal City Hotel and instructed the Board on the reservation procedures.

For discussion by that board, Dr. Hafner-Fogarty introduced the FSMB resolutions that will be considered at the 2009 House of Delegates meeting at the FSMB Annual Meeting.

Motions made on the following resolutions to the FSMB are advisory only to the Board's Voting Delegate, Dr. Mona.

1. Resolution 09-1 was submitted by the Rhode Island Board of Medical Licensure and Discipline requesting "the FSMB to work towards the development of a uniform national standard through the development of model guidelines regarding the use of the "Doctor" title with collaboration from other stakeholder groups such as the National Council of State Boards of Nursing." After board discussion, a motion was made, seconded, and passed that the Minnesota Board of Medical does not support this resolution. Dr. Snyder opposed the motion.
2. Resolution 09-2 was submitted by the Alabama Board of Medical Examiners requesting "the House of Delegates of the Federation of State Medical Boards to instruct the Bylaws Committee to bring a bylaws amendment effecting a change for all candidates for office to require current membership on their state member board as a qualification for office; and be it further resolved, the bylaws change shall allow for any elected official to serve out the remainder of any Federation of State Medical Boards elected term even though their state board membership has ended." After board discussion, a motion was made, seconded, and passed that the Minnesota Board of Medical Practice does not support this resolution.
3. Resolution 09-3 was submitted by the North Carolina Medical Board requesting "that the membership of the Federation of State Medical Boards join in a unanimous commendation of the distinguished services rendered by James N. Thompson, MD throughout his professional career to the FSMB and to the field of medical education, licensure and regulation. A motion was made, seconded, and passed unanimously that the Minnesota Board of Medical Practice supports this resolution.

4. Resolution 09-4 submitted by the North Carolina Medical Board requesting “that the Federation of State Medical Boards supports continued and improved effective means of communication between patients and physicians; and be it further resolved, that the Federation of State Medical Boards develop an inventory of resources that promotes effective communication to provide to patients and professional communities. After board discussion, a motion was made, seconded, and passed unanimously that the Minnesota Board of Medical Practice takes a neutral position on this resolution.
5. Resolution 09-5 submitted by the Texas Medical Board requesting “the Federation of State Medical Boards undertake, at the earliest possible opportunity, a thorough review of the reporting of licensure application withdrawals by each member board and draft a policy to ensure consistent reporting of these or any level of withdrawals by each member board that will advise member boards of a physician’s history of withdrawals in other state.” After board discussion, a motion was made, seconded, and passed unanimously that the Minnesota Board of Medical Practice opposes this resolution.
6. Resolution 09-6 submitted by the Florida Board of Medicine requesting “that the FSMB through its Board of Directors and staff be instructed by the House of Delegates to more broadly, openly, regularly and in a timely manner disseminate all information to and seek input from all concerned parties including state medical boards, executive directors of state medical boards, the public, the American Medical Association, the American Osteopathic Association, all state medical and osteopathic medical societies and associations, and other interested parties regarding any proceedings, deliberations and actions of the FSMB’s House of Delegates, Board of Directors, special committees and any ad hoc committees that relate to the MOL concept.” After board discussion, a motion was made, seconded, and passed unanimously that the Minnesota Board of Medical Practice takes a neutral position on this resolution.
7. Resolution 09-7 submitted by the Texas Medical Board requesting “that the Texas Medical Board respectfully requests the Federation of State Medical Boards draft and promote the adoption of a federal law that would allow shared information between boards to maintain the confidentiality of the originating board. After board discussion, a motion was made, seconded, and passed that the Minnesota Board of Medical Practice supports this resolution. Ms McGee opposed.

The board took a ten minute break.

Dr. Hafner-Fogarty presented the next agenda item, the Report of the By-Laws Committee of the FSMB for information only, but noted that the By-Laws Committee opposed Resolution 09-2, that was submitted by the Alabama Board of Medical Examiners.

Dr. Hafner-Fogarty introduced the next agenda item, the Minnesota Healthcare Workforce Shortage Study Workgroup Report. Mr. Leach stated that in 2008, the

Minnesota Legislature required the Commissioner of the Department Health to create a Healthcare Workforce Shortage Study Workgroup, in consultation with representatives from the health licensing boards and professional associations, to study changes necessary in health professional regulation to ensure full utilization of advance practice nurses, physician assistants, and other health professionals in the healthcare home and primary care delivery system. Mr. Leach stated that a copy of the report is included in the agenda for the board's information. Mr. Leach informed the board that the report has been submitted to the legislature this year.

Dr. Hafner-Fogarty introduced the next agenda item, e-Licensing Surcharge on Professional Licenses. Mr. Leach stated that the 2009 Governor's budget proposal contains a 10% surcharge on licensing fees to finance the building of a governor's e-Licensing System. Mr. Leach explained that the e-Licensing project is the Governor's proposal for a one-stop, on-line access to professional/occupational licensing and business/commercial licenses issued by the state. Mr. Leach informed the board that the Council of Health Boards, made up executive directors and board presidents of all the health licensing boards, and representatives of the various health professional associations, met with representatives from the Office of Technology on February 24, 2009. Mr. Leach informed the board that even though the board already has an on-line renewal system in place, the board cannot oppose surcharges on healthcare professionals that the board regulates; opposition has to come from the professional society, the Minnesota Medical Association. Mr. Leach stated that if the surcharge passes, there will be a financial cost to the board to fund the modification to the board's computer system to collect and distribute the surcharge to the Office of Technology. Mr. Leach stated that according to the Office of Enterprise Technology, the surcharge will be in effect for six years. Mr. Leach informed the board that once the board migrates its system into the Governor's e-licensing system, the integrity of the board's website may be compromised.

Dr. Hafner-Fogarty asked Karolyn Stirewalt, J.D., attorney for the MMA, what the MMA's position is on the surcharge. Ms. Stirewalt stated that in the last legislative session, the MMA opposed a proposed 10% surcharge and that legislation was defeated. Ms. Stirewalt believes that the MMA will once again oppose the surcharge. Dr. Auld stated that last year the 10% surcharge legislation was in a separate, self-standing bill, this year the 10% surcharge legislation is part of the governor's budget proposal.

Dr. Hafner-Fogarty introduced the next agenda item, the Executive Director's Report. Mr. Leach stated that on February 9 – 10, 2009, he presented the board's biennial proposed budget at the legislature before both the Senate and the House. Mr. Leach stated that the Medical Board was the only Health Licensing Board that did not request any kind of increase in their biennial budget, and had no change items to report.

Mr. Leach stated that the Minnesota Psychiatric Society presentation has been rescheduled to the May 9, 2009, board meeting.

Mr. Leach stated that he has a meeting with Annie Paruccini of the Governor's Appointment Office next week to review board member applications. Mr. Leach anticipates that the new board members first formal board activity will be the May 9, 2009, board meeting.

End of Public Session.

## **EXECUTIVE SESSION**

The following Board members were present for both Public and Executive Sessions, unless otherwise indicated: Rebecca Hafner-Fogarty, M.D., MBA, President, Allen Rasmussen, Vice President, Alfred Anderson, D.C., M.D., Secretary, Keith Berge, M.D., Robert Brown, Ph.D., Jack Geller, Ph.D., Bradley Johnson, M.D., Ernest Lampe, II, M.D., James Langland, M.D., Tammy McGee, James Mona, D.O., and Gregory Snyder, M.D.,

### **DEBRA G. CUDNOWSKI, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for restricted license signed by Dr. Cudnowski was approved.

### **CATHY A. DONOVAN, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand and restricted license signed by Dr. Donovan was approved.

### **KEALY R. HAM MALMGREN, M.D.**

On recommendation of the Complaint Review Committee, the license of Dr. Malmgren was reinstated.

### **JULIE M. JOHNSON, M.D.**

On recommendation of the Complaint Review Committee, the Stipulation and Order for reprimand and restricted license signed by Dr. Johnson was approved.

### **PATRICK M. PATRONE, M.D.**

On recommendation of the Licensure Committee, the Stipulation and Order for restricted license signed by Dr. Patrone was approved.

### **PAMELA J. SHULTZ, M.D.**

On recommendation of the Complaint Review Committee, the license of Dr. Shultz was reinstated. Dr. Hafner-Fogarty recused.

There being no further business, the meeting was adjourned.



Alfred Anderson, DC, MD  
Secretary  
MN Board of Medical Practice

April 30, 2009  
Date